

REMARKS

Upon entry of the present amendment, claims 2 and 3 will be canceled without prejudice or disclaimer of the subject matter recited therein; claims 1 and 4-8 will be amended; and claims 9-15 will be added, whereby claims 1 and 4-15 will be pending.

By the amendment herein, independent claim 1 has been amended to explicitly recite that the claim is directed to a combination of an ion-modified polymeric material and a tissue adhesive. Moreover, subject matter from canceled claims 2 and 3 has been included in amended claim 1.

Claim 6 has been amended into independent form including a method for producing a combination of an ion-modified polymeric material and a fibrin glue comprising irradiating at least a portion of a surface of a polymeric material comprising expanded polytetra-fluoroethylene (ePTFE), polylactic acid, or polyglactin with ions; and applying the fibrin glue to the irradiated polymeric material.

Claim 7 has been amended to recite a method for improving affinity with a fibrin glue of a polymeric material comprising carbon or silicon as a constitutional element comprising irradiating at least a portion of a surface of the polymeric material with ions to form an ion-modified polymeric material; and applying the fibrin glue to the irradiated at least a portion of a surface of the polymeric material.

Still further, dependent claims 8-15 have been added, and amendments have been made to place the claims even more in accordance with standard U.S. practice.

Support for the amendments to the claims appears throughout Applicants' originally filed application including the originally filed claims and the Examples, including page 10, lines 11-13.

Reconsideration of the rejection and allowance of the application in view of the following remarks are respectfully requested.

Claim of Foreign Priority

Applicants express appreciation for the acknowledgement of the claim of foreign priority as well as receipt of the certified copy of the priority application in this national stage application.

Drawings

Applicants express appreciation for the indication that the drawings filed February 28, 2005 have been accepted.

Information Disclosure Statement

Applicants also express appreciation for the Examiner's confirmation of consideration of Applicants' Information Disclosure Statement, filed February 24, 2006, by including an initialed copy of the Form PTO-1449 with the Office Action.

However, the Office Action indicates that two of the documents, i.e., (1) Yoshiteru SUZUKI et al., "Ion Beam Ni Yoru ePTFE Jinko Komaku No Kaishitsu - Soshiki Oyobi Fibrin Nori Saibo Secchakusei No Fuyo-", The Society of Polymer Science, Japan Yokoshu, Vol. 52, No. 5, pp. 1152 (2003); and (2) Noriyoshi TAKAHASHI et al., "Ion Beam Shosha Ni Yoru ePTFE Jinko Komaku No Kairyo", Three Beams Gijutsu Ni yoru Hyomen Kaishitsu to Kaiseki Yokoshu Riken Symposium, Heisei 15 Nen, pp. 24 (2003) could not be found, and despite the indication that the

documents have not been found states that a concise explanation of their relevance is not provided.

In response and in contrast to the indication in the Office Action, Applicants note that copies of these documents have been submitted with the Information Disclosure Statement. For the Examiner's convenience, additional copies of these documents are enclosed accompanied by a date-stamped mailroom receipt evidencing the filing of these documents on February 24, 2006.

Additionally, Applicants note that these documents are cited in the International Search Report of which the instant application is the U.S. national stage, and therefore should be considered of which an English language version has been submitted. Accordingly, consideration of these documents is required.

Accordingly, Applicants are submitting another copy of the Form PTO-1449, and Applicants request that a completely initialed copy of the form be forwarded with the next communication from the Patent and Trademark Office.

Response To Art-Based And Double Patenting Rejections

The following rejections are set forth in the Office Action.

Art Based Rejections

(a) Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Izukawa et al., J. Vac. Soc. Jpn., Vol. 45, No. 6, pp.514-518. June 2002.

(b) Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al., Ionics, Vol. 27, No. 7, pp. 3-11, 2001.

(c) Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al., U.S. Patent No. 5,152,783.

(d) Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al., US 2002/0155295.

Double Patenting Rejections

(e) Claims 1, 2 and 4-7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of U.S. Patent No. 5,308,704,

(f) Claims 1-7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,872,759.

(g) Claims 1, 2 and 4-7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 15 of U.S. Patent No. 5,152,783.

In response to these grounds of rejection, it appears that the rejections are not giving weight to the combination of the polymeric material with a tissue adhesive. In this regard, Applicants note that the documents utilized in the rejections do not disclose either products and/or methods including a combination of the recited polymeric material and fibrin glue. The rejections assert that the tissue adhesive is an intended use despite the fact that, for example, original claim 1 recites "A polymeric material used in combination with a tissue adhesive".

As discussed above, the claims have been amended to even more explicitly recite the presence of the recited polymeric material and fibrin glue.

Because rejections (a)-(d) are based upon documents that do not teach each and every feature recited in Applicants' claims, the rejections are without sufficient basis, and the anticipation rejection should be withdrawn.

Regarding the obviousness-type double patenting rejections (e)-(g), the rejections are without sufficient basis as the rejections do not establish how the patents are being modified to arrive at Applicants' claims subject matter. Therefore, if these rejections are maintained, the rejections should be modified to establish where Applicants' claimed subject matter is rendered obvious by the subject matter claimed in the asserted patents. Moreover, the rejections should establish where the presence of the recited polymeric material and a fibrin glue is rendered obvious based upon the claims for the asserted patents

Moreover, while the rejections of record should be withdrawn as not establishing obviousness of the presently claimed subject matter over the claims of the asserted patents, Applicants further note that U.S. Patent Nos. 5,308,704 and 5,152,783 have been patented for more than one year prior to the filing of Applicants' application. Therefore, in evaluating rejections based upon these documents statutory basis of rejection, such as 35 U.S.C. 102 and 103 should apparently be considered as compared to nonstatutory obviousness-type double patenting.

In view of the above, the rejections of record should be withdrawn.

Based on the above, it is respectfully submitted that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the objection and rejections of record, and allow each of the pending claims.

Applicants therefore respectfully request that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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